

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PHILLIP ELLIOT JONES,

Petitioner,

Case No. 10-cv-10383
HON. GEORGE CARAM STEEH

vs.

TOM BIRKETT,

Respondent.

_____ /

ORDER DENYING PETITIONER'S MOTION FOR RECONSIDERATION [#5]

On May 3, 2010, this court entered an opinion and order summarily dismissing petition for writ of habeas corpus and declining to issue a certificate of appealability. Petitioner now seeks reconsideration of this court's May 3, 2010 opinion and order.

Local Rule 7.1(g)(3) of the Local Rules of the United States District Court for the Eastern District of Michigan provides:

[M]otions for rehearing or reconsideration which merely present the same issues ruled upon by the court, either expressly or by reasonable implication, shall not be granted. The movant shall not only demonstrate a palpable defect by which the court and the parties have been misled but also show that a different disposition of the case must result from a correction thereof.

E.D. Mich. L.R. 7.1(g)(3). Petitioner has failed to demonstrate a palpable defect by which this court has been misled, the correction of which will result in a different disposition of this case.

This court lacks jurisdiction to entertain petitioner's petition challenging his

November 3, 1980 conviction and sentence to 90 days in the Detroit House of Corrections for violation of MICH. COMP. LAWS § 333.7403(2)(b). Petitioner is no longer “in custody” under the conviction he seeks to attack as required by 28 U.S.C. § 2254(a). See *Maleng v. Cook*, 490 U.S. 488, 490-91 (1989).

Accordingly,

IT IS ORDERED that petitioner’s motion for reconsideration is DENIED.

SO ORDERED.

Dated: November 24, 2010

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on November 24, 2010, by electronic and/or ordinary mail and also to Phillip Jones at Mound Correctional Facility, 17601 Mound Road, Detroit, MI 48212.

S/Josephine Chaffee
Deputy Clerk